

**General Terms and Conditions of Delivery
and Payment of ACPS Automotive GmbH
Status as of July 2008**

**Article 1
Creation of the Contract**

1. The present transaction and any transactions thereafter with the Customer shall be subject exclusively to the present terms and conditions. Any contrary terms and conditions of the Customer shall not apply unless there has been a specific individual agreement to this effect. Any contrary terms and conditions of purchase of the Customer shall not apply even if they are contained in a letter from the Customer confirming the Contract in reply to our acknowledgement of order, and we have not repudiated them. Our silence shall be deemed rejection. Our terms and conditions shall be deemed accepted at the latest upon acceptance of our goods by the Customer, in particular when the order is made by telephone. Deviations from this through individual agreements must be in writing.
2. Delivery contracts are created either through our written acknowledgement of order after receiving an order in writing, or through delivery. All verbal ancillary or supplementary covenants especially also those made by telephone, in particular also those relating to the performance of the order, must be separately confirmed in writing by us in order to be enforceable.
3. The documents which belong to the order, such as illustrations, drawings, stated weights and dimensions shall be deemed approximate unless they have been expressly stated to be binding. We reserve property rights and copyrights to all cost quotations, drawings and other documents. These must not be made accessible to third parties.

**Article 2
Delivery**

1. The scope of delivery shall be determined by our written acknowledgement of order. If no written acknowledgement is given, the scope of delivery shall be in accordance with the agreements made

- between the Customer and ourselves.
2. The right to make changes in design or shape due to technological improvements and/or statutory requirements is reserved during the delivery lead time insofar as the delivered goods are not substantially changed and the Customer can be reasonably expected to accept such changes.
 3. If we subsequently have reason to believe that the Customer is irregular in making payments, that application has been made for a moratorium or that insolvency proceedings have been opened, or any other impairment of its financial condition, then we shall have the right to make delivery depend on the advance payment of the purchase price or to payment cash on delivery.
 4. If delivery is not accepted (including shipments made C.O.D.), all freight and mail charges, and incidental expenses shall be borne by the Customer.
 5. The scope of delivery and the goods to be delivered shall result - over and above the provisions of Clause 1 - from any additional descriptions of performance insofar as these have become the subject matter of the present Contract.
 6. We reserve the right to provide performance which is equivalent in quality and price. We also reserve the right not to make delivery of the promised goods and/or services if they are not available.

**Article 3
Delivery lead times**

1. Subject to our receiving deliveries correctly and in good time, it is our primary aim to adhere to delivery deadlines as far as possible.
If difficulties occur in deliveries made to us as regards the availability of the goods or the timeliness of such availability, we are under the obligation to make this known without delay. If there is a delay in excess of six weeks, both contracting parties have the right to withdraw from the present Contract by making a written declaration to this effect to the other party. In this case, any deliveries already made are to be returned. There shall be no further claims, in particular no claims to damages.

2. The delivery lead time commences upon dispatching the acknowledgement of order but not before the Customer has provided any documents, licenses, approvals that it is required to provide or before an agreed down payment has been received.
3. The delivery lead time shall be deemed adhered to if notice has been given of readiness for shipment or the goods to be delivered have left the works before its expiry.
4. The delivery lead time shall be extended if events occur in the course of industrial strife, in particular, strikes and lockouts, and if unforeseen obstacles occur which are beyond our control, such as disturbances of operations, delays in the delivery of essential materials and such obstacles evidently have a considerable influence on the delivery of the goods to be delivered. This shall also apply if such circumstances occur to our suppliers. The delivery lead time shall be extended by the duration of such measures and obstacles. We shall not be held responsible for such circumstances even if they occur at a time when we are already in default. We shall inform the Customer of the commencement and the end of such obstacles as soon as possible in important cases.
5. The adherence to delivery lead times is conditional upon the Customer fulfilling its obligations also required for other transactions with us.

Article 4

Packaging and shipment

1. Shipment of the goods (including any returns) shall be at the Customer's expense and risk. This shall also apply in cases where we make delivery with our own vehicles. In any case, we shall have the right to charge the costs of carriage up to an amount of the charges that would be incurred by another form of transport.
2. The form of shipment shall be at our option. We give no guarantee that the cheapest form of shipment will be used.
3. We reserve the right to perform shipment not from the place of performance in the meaning of Article 12 Clause 1, but from any other place of our choice.

4. We shall charge for the packaging separately.

Article 5

Prices

1. The prices are strictly net prices ex works. Value-added tax at the respective statutory rate is added to the prices.
2. For invoiced amounts of less than EUR 25 net without value-added tax a surcharge of EUR 5 plus VAT will be charged to offset the low amount.
3. If an envisaged quantity of purchases is laid down at execution of contract, and we incur development and pre-production costs for development and for creating the conditions for production which are then included in our price calculations on the basis of the envisaged volume of purchases, we shall be entitled to charge the pro-rata non-redeemed above costs if the Customer fails to call up the envisaged purchase volume for reasons for which we are not responsible, e.g. lower requirements, termination of the contract etc. The above provision shall also apply in the case of framework agreements and multiple delivery contracts.

Article 6

Retention of title

1. We retain title to the delivered goods for all claims under the present and future business relationship with the Customer (current account reservation). The fact that particular claims to payment are part of a current account or are off-set, and the acknowledgement thereof does not revoke the retention of title.
2. We have the right to take back the goods in which title is retained during the Customer's normal working hours if the latter fails to perform its obligations to us, in particular when it defaults on payment, and to enter all its storage and business premises for this purpose. The removal is not unlawful interference with possession.
3. In cases where our goods are processed or combined with other products, we shall acquire a share of the property in the goods thus created which the owner shall hold in safekeeping on our behalf without

charge with the due care and diligence of a prudent businessman. Our share of the property shall be in the same ratio as the value of the processed goods subject to retention of title to the value of the newly created goods.

Should the Customer acquire sole property through combining, then it shall hereby assign to us property therein in the same ratio as the value of the goods subject to retention of title to the value of the newly created goods. With regard to further sales, Clause 4 below shall apply. A claim created through resale or on any other legal grounds is hereby assigned to us in an amount corresponding to the above-mentioned proportion.

4. If the Customer sells the goods in which title is retained either alone or together with goods which are not our property, the Customer hereby assigns the claim arising from such further sale in an amount corresponding to the value of the goods in which we retain title with all ancillary rights and priority before the rest. We accept the assignment. The value of the goods in which title is retained is the amount charged in our invoice.
5. The Customer is authorized to sell, use or install the goods in which title is retained only in the course of its ordinary business. The Customer is not authorized to dispose of such goods in another manner, in particular to pledge or assign them as security. If payment is made by cheque / bill of exchange, the retention of title shall expire when the bill / cheque has been honoured and the invoiced amount credited.
6. The authorization to sell, to use or to install the goods in which title is retained shall not apply in cases where the Customer makes a contract with a third party which prohibits it to assign a claim against a third party to us.
7. The Customer authorizes us, subject to revocation, to collect assigned claims. We shall not make use of such authorization as long as the Customer fulfils its payment obligations. At our request, the Customer shall provide all necessary information regarding the stock of goods which are our property and the claims and rights

assigned to us, as well as inform its customers of the assignment. We are entitled but not obliged at any time to notify the Customer's customers of the assignment and to assert such assigned claim in our own name. The enforcement of such assigned rights shall be at the expense and risk of the Customer without our being obliged to do so and without the Customer being able to make us liable therefore.

8. The Customer shall inform us without delay of all distraint measures by third parties against the goods in which title is retained or the assigned claims, at the same time giving us the documents required to oppose it.
9. At the Customer's request, we shall release the collateral due to us as security for claims which have not yet been satisfied to the extent that such security exceeds them by more than 20%.
10. It is prohibited to the Customer to pledge, assign as security and assign by way of security the goods in which title is retained, and any other rights, and to make any dispositions which impair our other rights.
11. In the event of acts of execution by third parties against the goods in which title is retained, against the claims assigned by us, or against justified rights pursuant to the above paragraphs, the Customer shall draw attention to our property, and inform us without delay, sending all the documents required for intervention.
12. The fact that we accept returned goods in which property is reserved, or attach them shall not be deemed withdrawal from the Contract. Such measures take place only to secure our claims.
13. If composition or insolvency proceedings are opened we do not agree to the resale of goods in which title is retained.

Article 7 Payment

1. Invoices are payable immediately strictly net.
2. All payments shall be made charges paid to our principal office.
3. Payments by bill of exchange are barred unless an express written agreement has

been made to this effect. Acceptance of such bills by way of an exception shall be deemed an extension for payment as long as the financial position of the Customer has suffered no adverse changes and no such changes become known. Payments by bills of exchange are not deemed cash payments. Discounting and other expenses in connection with a bill are to be paid by the Customer in any case immediately upon the bill being drawn. We take no responsibility for timely presentation, protestation and/or recourse for the bill of exchange. Cheques are not accepted in lieu of a payment but on account of performance.

4. Default interest is charged at a rate of 8% p.a. higher than the base rate of the European Central Bank. It is to be set higher if we can prove that our burden is higher, and lower if the Customer can prove that our burden is lower.
5. The withholding of payments on grounds which we do not acknowledge or which have not been determined by a final court judgement is barred, and the same applies to offsetting any Customer claims.
6. If payment terms are not adhered to or circumstances become known which lead to the conclusion that claims to payment are at risk on account of liquidity problems on the Customer's part, then we shall be entitled to make further deliveries depend on advance payment or the provision of collateral.

Article 8

Passage of risk

1. Risk shall pass to the Customer in all cases once the shipment leaves our principal offices or shipment is delayed after readiness of shipment at the Customer's request. We do not cover damage to or loss of the goods during transport. Insofar as claims can be made against liable third parties and/or against insurers (insurance coverage only at the wish and expense of the Customer), the Customer's claim against us is fully satisfied through the assignment of the claim to the Customer .

Article 9

Warranty

1. Insofar as we have not manufactured the goods delivered to the Customer ourselves but have procured them from a supplier, we satisfy our warranty obligations in full by assigning all our own claims against our supplier to the Customer. The Customer accepts this assignment on account of performance. If such claims are not enforceable or not successful, the subsidiary warranty claims against us shall be in accordance with the provisions of Clause 2 below.
2. The delivered goods show the characteristics given in the product description or those customary in the trade. Statements regarding characteristics are no guarantees unless they have been expressly stated to be such. Generally, no warranty will be given under the present terms and conditions and/or according to the law. The party ordering shall check the received goods without delay for defects and their composition as well as reduced quantities. Defects and reduced quantities shall be notified within one week of delivery by written notification to us; otherwise there shall be no claim to warranty. Any statutory provisions going beyond this shall not be affected. Concealed defects must be reported to us in writing within one week of their discovery.

If a defect is found, the Customer shall make the objectionable goods available to us for examination. In cases of culpable refusal to do so, all warranty claims shall lapse.

The above obligation to report shall also apply if the Customer is informed by its customer of defects in the goods or parts thereof which we have delivered.

If the Customer's complaint is justified, then it shall have the right to ask for repairs or a new delivery in subsequent fulfilment of the contract. We have the right to refuse the selected form of subsequent fulfilment if this is possible only at disproportionately high expense, or the selected form of subsequent fulfilment is more expensive than the other, and this brings no major

disadvantages for the Customer compared with other possible forms of subsequent fulfilment. If the contract is fulfilled through repairs, our attempts to repair shall be limited to three for one and the same defect, and to six attempts with respect to all defects.

If the purchased goods are to be brought to a place other than the original place of delivery after subsequent fulfilment, then the Customer shall bear any additional costs to this extent. The same shall apply if the Customer sends the defective goods to us from a place other than its principal offices / place of delivery for the purpose of repairs.

The Customer shall only be entitled to claim any further warranty if it has set us a reasonable period of grace to perform such repairs or substitute delivery, and this period has expired without effect. If the defect is only of a minor nature, the Customer has no right to withdraw from the Contract. The right to reduce the purchase price shall not be thereby affected.

3. No warranty obligations exist if
 - a) the defect is due to improper use, operation or care, or defective maintenance, defective installation and commissioning or force and other external factors (e.g. chemical, electromagnetic, electric etc.) provided that we were not responsible for this.
 - b) the defect is due to an improper change made to the delivered goods, in particular to the use of unsuitable spare parts, in particular parts from another manufacturer, and the damage has been caused by this change or use.

Natural wear and tear or damage which results from negligent or improper operation or treatment are not covered by warranty.

4. The goods complained of are to be returned to us together with the original delivery note or a photocopy thereof. Through negotiations relating to complaints we do not waive the defence that notification of defect was not made in time or was not duly performed.

5. The Customer has the right to withhold payments and to make claims on grounds of defects only to the extent that this is in proportion to the defect complained of, in good faith, in other words, at most up to an amount corresponding to the purchase price of the goods that were complained of as being defective.
6. If the Customer or a third party makes improper repairs, we accept no liability for the duration of any consequences resulting therefrom. The same shall apply to any changes made to the delivered goods without our consent.
7. Section 10 shall apply for any claims to damages.
8. If the scope of delivery includes copyrightable software or any other goods or rights, the Customer will be granted a non-exclusive right to use the delivered software including the related documentation.

The Customer may use and process the software only to the extent permitted by law and shall not remove any manufacturer's instructions or change our prior written consent.

The Customer has no right to transfer the software or rights thereto - e.g. through a licence - to third parties without our prior written consent.
9. The warranty period on grounds of material defects is one year from date of delivery of the goods. This shall not apply insofar as we are liable on grounds of intent or malicious concealment of a defect known to us. In such cases we shall be liable as provided by statutory regulations.
10. The Customer has no right to use advertising not approved by us in the distribution of the goods we have manufactured. If the Customer's customers assert claims on grounds of defects which they claim are based on the fact that the purchased goods differ from the promotional statements of the distributor, then the latter does not have the right to derive claims against us from this circumstance.

**Article 10
Liability**

1. For loss or injury sustained by the Customer, irrespective of the legal grounds thereof, in particular on grounds of breach of contractual obligations and tort, or under the Produkthaftungsgesetz (law on product liability), we shall be liable only in cases of intent or gross negligence, unless
 - a) liability is on grounds of endangering life, limb or health
 - b) liability is on grounds of a breach of essential contractual obligations.
2. The claim to damages on grounds of a breach of essential contractual obligations shall be limited to loss or injury which is a typical, normally foreseeable loss or injury.
3. This shall also apply in cases of liability for defects.
4. The limitations of liability in Articles 9 and 10 shall also apply with regard to any liability on grounds of incorrect advice, incorrect assembly instructions and any breaches of secondary obligations.
5. All further claims to damages are barred.
6. Article 9 Clause 9 shall apply analogously to the expiry of the above claims.

Article 11

Offsetting / Right to withhold

1. The Customer offset its counterclaims against our claims only if such counterclaims are uncontested or have been confirmed by a final court decision.
2. Unless otherwise provided in the present terms and conditions of business, this shall also apply to the assertion of the right to withhold payments.

Article 12

Place of performance and place of jurisdiction

1. The place of performance is our relevant plant for delivery.
2. For any disputes arising from the contractual relationship, action shall be taken at the court which is competent for our head office in Markgröningen/

Germany if the party ordering is a full businessman, a legal entity under public law or a special fund under public law. We are also entitled to file action at the Customer's place of business.

**Article 13
Applicable law**

1. The laws of the Federal Republic of Germany shall apply exclusively to the exclusion of the laws relating to the international purchase of movable goods, even if the Customer's domicile is abroad.

Article 14

Agreements relating to form

1. Amendments, supplements and collateral covenants to the present General Terms and Conditions of Business and to individual contracts must be in writing in order to be enforceable. This shall also apply if the written form is to be revoked for amendments.
2. No verbal collateral covenants have been made.

Article 15

Miscellaneous

1. The transfers of rights and obligations of the Customer under the Contract made with us require our written consent in order to be enforceable.
2. Should any provisions of the above General Terms and Conditions of Business be or become wholly or partly void, contestable or ineffective, this shall not affect the validity of the other provisions and of the Contract. The contracting parties shall then replace this with an effective provision which comes closest to fulfilling the economic purpose of the replaced provision.